

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL APPLICATION NO.3313 OF 2004
IN
CRIMINAL APPEAL NO. 541 OF 2004

Mohd. Yasin Mohd. Akbar Khan and ors.
....Petitioners.

Vs.
Sr, Inspector of Police
D.N. Nagar Police Station and ors.
....Respondents.

Mr. Ramrao Adik with Smt.Archana Khan for the
Petitioners.

Mrs. U.V. Kejriwal, A.P.P. for the Respondents.

CORAM: S.S.PARKAR &
R.S.MOHITE, JJ.

DATED: 25TH AUGUST, 2004

P.C.

1. This application is filed on behalf of the accused Nos. 3 and 4 who alongwith other two accused have been convicted for offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life. This appeal has been already admitted by this court.

2. In this case there is evidence of P.W.No.1 i.e. the brother of the deceased who was complainant and an eye witness. According to his deposition the deceased was assaulted with weapons like swords and chopper by accused Nos. 1, 2 and 3. The deceased had received 27

injuries on his body. The role attributed to the accused No.4 is of instigation to beat the deceased. P.W.No.1 was an eye witness to the incident who was believed by the Trial Court. The other eye witnesses did not support the prosecution. There is also recovery of weapons at the instance of accused No.3. In the circumstances, the application for bail made on behalf of the petitioner No.1 i.e. original accused No.3 is rejected.

3. So far as Petitioner No.2 i.e. original accused No.4 is concerned, it is stated that the accused No.4 was on bail through out the trial and there is allegation of only instigation against him. There is no allegation that he had abused the bail in the Trial Court. Therefore, he is directed to be released on bail in the sum of Rs.20,000/- with one or two sureties to make up the amount.

(S.S.PARKAR, J.)

(R.S. MOHITE, J.)